



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 23 2002

REGISTERED MAIL
RETURN RECEIPT REQUESTED

Dr. Joachim Krueger
Celanese Americas International
Celanese Chemicals EHS VP
1601 West LBJ Freeway
P.O. Box 819005
Dallas, TX 75381-9005

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

Subject: In the Matter of Celanese Americas Corporation
Final Determination: Notice of Violation

Dear Dr. Krueger:

Enclosed please find a **NOTICE OF VIOLATION** for violations disclosed under the Toxics Substances Control Act, 15 U.S.C. § 2601 *et seq.* The Agency appreciates Celanese Americas Corporation's willingness to self-police, disclose, and correct violations in a timely manner. EPA is in receipt of your letters dated October 23, 1998, September 24, 1999, October 21, 1999, and September 17, 2001, in which you disclosed TSCA § 12(b) violations for chemical substances regulated under TSCA §§ 4 and 5. Based on your documentation, your facility appears to have taken immediate actions to correct these violations by submitting the proper notifications.

In accordance with the **FINAL POLICY STATEMENT** entitled, Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations, 65 Fed. Reg. 19618 (April 11, 2000) ("Audit Policy"), EPA will not seek any gravity-based penalty or economic benefit. Celanese Americas Corporation has discovered, disclosed, and corrected the violations in accordance with the Audit Policy. Should you have any question regarding this letter, please contact Case Officer, Yvette P. Hellyer, of my staff, at 202-564-4033.

Sincerely,

Ann Pontius, Director
Toxics & Pesticides Enforcement Division

cc: Daniel S. Flynn, Esq.



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| <i>In the Matter of</i> |) | FINAL DETERMINATION; |
| Celanese Americas Corporation |) | Notice of Violation |
| Dallas, Texas |) | |
| |) | |

I. AUDIT POLICY

- (1) Discovery of the violations through an environmental audit or due diligence;
- (2) Voluntary disclosure;
- (3) Prompt disclosure;
- (4) Discovery and disclosure independent of government or third-party plaintiff;
- (5) Correction and remediation;
- (6) Prevent recurrence;
- (7) No repeat violations;
- (8) Other violations excluded; and
- (9) Cooperation.

II. FINDING OF FACTS

Starting on or about October 23, 1998 and September 24, 1999, a representative for Celanese Americas Corporation (hereinafter "Celanese") informed the Agency by letter of potential violations under the Toxic Substance Control Act (hereinafter "TSCA") 15 U.S.C. § 2601 *et seq.* Discovery of the violations occurred during company audits at the Dallas facility and Corpus Christi Technical Center for all export notifications of chemical substances regulated under TSCA § 12 (b).

Disclosure 1: Celanese exported chemicals regulated under TSCA § 4 requiring TSCA § 12(b) export notifications pursuant to 40 C.F.R. § 707.60 between 1993 and 1998. -Celanese disclosed by letter on October 23, 1998 the following information:

| TSCA § 4 Chemical Identified for § 12 (b) Violations | | | | |
|--|--|----------|--|---------------------|
| | Chemical Substance <i>sunset date</i> | CASRN | Export Destinations | Export Year |
| 1 | Hydroquinone <i>Dec 11, 1994</i> | 123-31-9 | Argentina, Ecuador, Germany, Spain, Zimbabwe | 1993 1994 |
| 2 | Acrylic Acid <i>March 9, 1999</i> | 79-10-7 | India, Netherlands, Peru, Taiwan, Thailand, United Kingdom, Uruguay, Zimbabwe | 1993 1994 1996 |
| | | | Ireland | 1997 |
| 3 | Isobutanol <i>Mar 17, 2001</i> | 78-83-1 | Brazil, Canada, China, Colombia, Germany, Indonesia, Japan, Korea, Netherlands, Taiwan, Thailand, Turkey, Uruguay, Venezuela | 1993 1994 1996 |
| 4 | Ethyl acetate <i>July 6, 2002</i> | 141-78-6 | Argentina, Brazil, Colombia, Ecuador, Egypt, Indonesia, Netherlands, Malaysia, Peru, Philippines, Singapore, Thailand, Turkey, Venezuela | 1993 1994 1995 1996 |
| | | | Japan, Uruguay | 1997 1998 |
| 5 | Butyl acetate <i>January 21, 2002</i> | 123-86-4 | Argentina, Colombia, Egypt, Indonesia, Malaysia, Netherlands, Peru, Singapore, South Africa, Spain, Thailand, Turkey, Venezuela | 1993 1994 1995 1996 |
| | | | India | 1997 |
| 6 | Isopropanol <i>June 16, 1999</i> | 67-63-0 | Argentina, Canada, Germany, Ecuador | 1993 1994 1996 |
| 7 | Acetone <i>June 19, 2002</i> | 67-64-1 | Canada, Japan | 1994 |

Disclosure 2: Celanese exported chemicals regulated under TSCA § 4 requiring TSCA § 12(b) export notifications pursuant to 40 C.F.R. § 707.60 between 1994 and 1999. Celanese disclosed by letter on October 21, 1999, the following information as a result of the internal audit conducted at the Dallas facility:

| TSCA § 4 Chemical Identified for § 12 (b) Violations | | | | |
|---|--------------|--|--------------------|--|
| Chemical / Sunset Date | CASRN | Export Destinations | Export Year | |
| 1 2-Ethylhexanol <i>Feb 10, 1997</i> | 104-76-7 | Argentina, Brazil, Canada, Chile, Ecuador, India, Indonesia, Israel, Korea, Netherlands, Peru, Philippines, S. Africa, Singapore, Turkey, Venezuela | 1994 1995 1996 | |
| 2 Crotonaldehyde <i>Nov 30, 1997</i> | 4170-30-3 | Argentina, Brazil, Canada, Chile, China, Colombia, Ecuador, Egypt, Germany, India, Indonesia, Israel, Japan, Korea, Malaysia, Mexico, Netherlands, Peru, Philippines, S. Africa, Singapore, Spain, Taiwan, Thailand, Turkey, UK, Venezuela | 1994 1995 1996 | |
| | | Pakistan | 1997 | |
| 3 Butyl acetate <i>January 21, 2002</i> | 123-86-4 | China, Ecuador, Germany, Japan, Mexico, Philippines, Taiwan, UK | 1994 1995 1996 | |
| | | Dominican Republic, Guatemala, Honduras, Pakistan | 1997 1998 1999 | |
| 4 Ethyl acetate <i>July 6, 2002</i> | 141-78-6 | China, India, Italy, Mexico, S. Africa, Trinidad & Tobago | 1994 1995 1996 | |
| | | Australia, Belgium, Spain | 1997 1999 | |
| 5 Isobutanol <i>March 17, 2001</i> | 78-83-1 | Ecuador, Egypt, Israel, Italy, Mexico, Peru, S. Africa, Singapore, Spain, UK | 1994 1995 1996 | |
| | | India | 1999 | |
| 6 Acrylic Acid <i>March 9, 1999</i> | 79-10-7 | China, Ecuador, Israel, Japan, Malaysia, Philippines, Singapore, Turkey | 1994 1996 | |
| | | Belgium, Dominican Republic, Pakistan, Spain | 1997 1998 1999 | |
| 7 Acetone <i>June 19, 2002</i> | 67-64-1 | Mexico, Peru | 1994 1995 | |
| | | Colombia | 1997 | |
| 8 Isopropanol <i>June 16, 1999</i> | 67-63-0 | Australia, Belgium, China, Indonesia, Korea, Malaysia, New Zealand, S. Africa, Taiwan, UK | 1994 1995 1996 | |
| | | Brazil, Canada, Costa Rica, Uruguay | 1997 1998 1999 | |
| 9 Methyl tert-butyl ether <i>Nov 18, 1997</i> | 1634-04-4 | Australia, Canada, Italy | 1994 | |

Disclosure 3: Celanese exported chemicals regulated under TSCA §§ 4 and 5 requiring TSCA § 12(b) export notifications pursuant to 40 C.F.R. § 707.60 between 1994 and 1997. Celanese disclosed by letter on October 21, 1999, the following information as a result of the internal audit conducted at the Corpus Christi Technical Center:

| TSCA § 12(b) EXPORT NOTIFICATION VIOLATIONS | | | | |
|---|--|----------|--|--|
| | CHEMICAL / § 4 sunset date (as applicable) | CASRN | Destination to: | Date |
| 1 | Acetone / June 19, 2002 | 67-64-1 | Czech Republic; Germany | 12/14/94, 2/11/97 |
| 2 | Acrylic Acid / March 9, 1999 | 79-10-7 | Mexico | 11/14/94 |
| 3 | Ethyl Acetate / July 6, 2002 | 141-78-6 | Germany | 6/17/97 |
| 4 | 1,1,1,2,3,3,3-Heptafluoropropane | 431-89-0 | Germany | 5/15/97 |
| 5 | 2-Hexanone (or Methyl n-butyl ketone) | 591-78-6 | France; Germany; Japan | 6/30/99; 4/27/99; 1/30/96 and 2/2/99 |
| 6 | Isopropanol / June 16, 1999 | 67-63-0 | Canada; Denmark; England; France; Germany; Japan; New Zealand; Sweden; Switzerland; UK | 9/14/94; 1/21/94; 6/26/96; 9/29/95; 2/4/94; 3/9/95; 5/24/95; 9/22/94; 11/1/95; 12/9/94 |
| 7 | Tetrahydrofuran / Nov 25, 2001 | 109-99-9 | Germany | 7/26/95 |

III. Final Determination:

Pursuant to the Audit Policy and based on information provided by Celanese, EPA makes the following final determination:

1. For the exportation to a foreign country of chemical substances for which the submission of data is required under TSCA §§ 4 or 5, such person shall notify the Administrator of such exportation or intent to export pursuant to TSCA § 12(b).
2. Failing to submit a notice prior to exportation of a TSCA § 4 regulated chemical substance results in a one day violation per chemical substance per country.
3. Failing to submit a notice prior to exportation of a TSCA § 5 regulated chemical substance results in a one day violation per chemical substance per country per year of export.
4. Celanese meets the conditions of the Audit Policy for eliminating the total gravity-based penalty of \$ 1,104,000, as assessed under TSCA § 16.
5. EPA will not seek a gravity based penalty for each violation.

6. Celanese gained an insignificant amount of any economic benefit as a result of these disclosed violations.

In making this final determination, the Agency believes Celanese is capable of achieving a higher standard of self-policing and greater compliance with laws and regulations that protect human health and the environment. EPA expects Celanese will continue to implement systematic internal audits and a comprehensive due diligence program to ensure compliance to prevent recurrence of violations of environmental requirements.

Under Authority of the U.S. Environmental Protection Agency

Date: Aug. 28, 2002

By: Ann Pontius

Ann Pontius, Director
Toxics & Pesticides Enforcement Division
Office of Regulatory Enforcement